

### REMARKS

Applicant has amended claims 6, 8 and 9. Claims 10-32 have been canceled. New claims 33-44 have been added. These amendments to the claims have been made to place them in better form for examination and to further obviate the 35 U.S.C. §112 rejections as set forth in the Office Action dated December 5, 2003. It is believed none of these amendments constitute new matter. It is submitted that these amendments obviate the rejections. Withdrawal of these rejections is requested.

The Examiner has objected to the disclosure at page 35 as not designating the inbred that will be deposited. Applicant has amended the specification with this information.

The Examiner advises that if claim 9 is found allowable, claim 10 will be objected to under 37 CFR §1.75 as being a substantial duplicate of claim 9. Applicant has canceled claim 10.

The Examiner has objected to claim 8 for informalities. Claim 8 has been amended as suggested by the Examiner.

Claims 6, 8-10, 20, 23-25, and 29-31 are rejected under 35 U.S.C. §112, second paragraph as being indefinite. Specifically, claim 6 as being indefinite stating there is no indication in the specification that a corn plant produced by growing the seed of corn inbred line designated HC53 is male sterile. Applicant has amended claim 6.

Claim 8 as indefinite in the recitation of "or protoplasts". Applicant has amended claim 8.

Claim 9 as indefinite in the recitation "is capable of expressing all the". Applicant has amended claim 9 as suggested by the Examiner.

Claim 10 as indefinite because the Examiner states the Applicant claims a product produced by a process of using the corn plant of claim 5, wherein no process steps are recited in the claim. Applicant has canceled claim 10.

Claims 20, 23, 25 and 29 are rejected as indefinite for the recitation of phrases "high yield", "above average stalk strength", etc. Applicant has canceled claims 20, 23, 25 and 29.

Claim 24 is rejected as indefinite stating it is unclear at what point in claim 19 the "utilizing plant tissue culture methods" step is practiced. Additionally claim 24 is rejected in the recitation of "to derive progeny". Applicant has canceled claim 24.

Claim 30 is rejected as indefinite for lack of method steps. Applicant has canceled claim 30. Withdrawal of these rejections is respectfully requested.

Claims 6, 9 and 12-32 are rejected under 35 U.S.C. §112, first paragraph as failing to comply with the written description requirement. Applicant submits that claims 6 and 9 have been amended and claims 12-32 have been canceled. Withdrawal of this rejection is respectfully requested.

Claims 1-32 are rejected under 35 U.S.C. §112, first paragraph as failing to comply with the enablement requirement. Specifically, claims 1-5, 7 and 11 are rejected for lack of a deposit of biological materials of inbred corn line HC53. As mentioned on page 35, a deposit of the HC53 corn seeds are being maintained until allowance of the claims of the present invention. At that time Applicant will deposit the seeds with ATCC or an approved patent depository and insert the Accession Number into the remaining claims. Additionally the undersigned avers that:

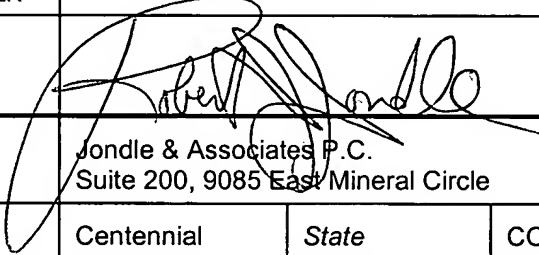
- a) access to the invention will be afforded to the Commissioner during the pendency of the application;
- b) all restrictions upon availability to the public will be irrevocably removed upon the granting of a patent;
- c) the deposit will be maintained in a public depository for a period of 30 years or 5 years after the last request or for the enforceable life of the patent, whichever is longer;
- d) a test of the viability of the biological material at the time of deposit; and
- e) the deposit will be replaced if it should ever become inviable or when requested by ATCC.

Accordingly, withdrawal of these rejections is requested.

Claims 6, 9, 12-18 and 20-32 are rejected for lack of enablement. Applicant has amended claims 6 and 9. Claims 12-18 and 20-32 have been canceled in favor of new claims 33-44. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 12-16, 20, 22, 23, 25, 28, 29 and 32 under 35 U.S.C. §102(b) as anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over Solawetz (US 5,986,184). Applicant has cancelled claims 12-16, 20, 22, 23, 25, 28, 29 and 32 in favor of new claims 33-44. Withdrawal of this rejection is requested.

In view of the above amendments and remarks, it is submitted that the claim satisfies the provisions of 35 U.S.C. §§102, 103 and 112 and is not obvious over the prior art. Reconsideration of this application and early notice of allowance is requested.

RESPECTFULLY SUBMITTED,					
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